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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,700	09/29/2003	Robert E. Kieswetter	58325.0003	7428

24629 7590 04/20/2004
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EXAMINER

BARROW, JAMES G

ART UNIT PAPER NUMBER

3749

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,700

Applicant(s)

KIESWETTER, ROBERT E.

Examiner

James G. Barrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) 5-7 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

Figures 11 and 12 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: The Examiner has noticed the Applicant has placed the untitled reference to a divisional application above the title of the invention.

Appropriate correction is required.

The abstract of the disclosure is objected to because in line 8 of the Abstract "the cartridge, replacement can be accomplished in approximately fifty minutes" while in lines 20-21 of page 6 of the specification "the cartridge to be removed and replaced quickly (i.e. in less than fifteen minutes)". On the Heat Design Equipment, Inc. website the "cartridge can be replaced in 10 minutes". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neufeldt (5,218,982) in view of Haire et al (4,927,355). Neufeldt discloses a radiant heating apparatus for asphalt road repair having a heating unit figures 2 and 3 having a propane supply 50, and a radiant heating unit with a venturi fuel/air mixer 43, a housing 32, a deflector 46, and a first layer of steel mesh 34 and a layer of ceramic fibre material 36, such as Kaowool (TM), and a second layer of steel mesh 38 is placed on top of ceramic fibre 36 defining a chamber 40 in housing 32. Neufeldt does not disclose layers of steel and ceramic fibre as being replaceable. Haire et al discloses a burner assembly having a multi-ply screen, a skirt 64, and attachable to the housing in the same field of endeavor for the purpose of "stable heating is achieved along the entire radiant surface" (C: 2, L: 16-17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the burner assembly of Haire et al in the radiant heating unit of Neufeldt in order to provide a stable heating is achieved along the entire radiant surface. Haire et al discloses a multi-ply screen. Haire et al does not disclose the plies comprising a top to bottom aluminum screen, stainless steel mesh, and ceramic wool. It is common knowledge in the prior art use aluminum screen, stainless steel mesh, and ceramic wool in radiant heater screens for the purpose of providing a heat resistant flashback prevention layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use multiply screen consisting of aluminum screen, stainless steel mesh, and ceramic wool in order to provide a heat resistant flashback prevention layer. Regarding claim 8,

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a close reading of the specification reveals no reason for limiting the number of bolts to eight, therefor it is the Examiner's position that such a limitation would be an engineering choice.

Allowable Subject Matter

Claims 5-7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Damp et al (4,601,605), Kelzer et al (5,114,284), Frampton et al (5,397,199), and Wiley et al (5,895,171) disclose asphalt heaters. Karlovetz et al (3,857,670), Bratko et al (4,189,297), and A. L. Lambert (3,040,805) disclose a replaceable screen mesh.

Contact Information

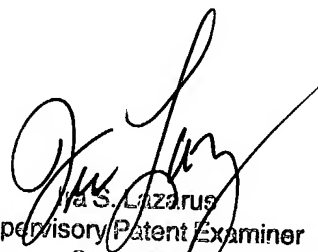
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Barrow whose telephone number is (703) 305-5427. The examiner can normally be reached on M-F, 9:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Barrow


Iva S. Lizarus
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